Supreme Court, U.S.
FILED

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No. _____

In the
Supreme Court of the United States

TEXAS COMMERCIAL ENERGY,
A TEXAS LIMITED LIABILITY COMPANY,
Petitioner,

v.

TXU ENERGY, INC., ET AL.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether only the United States Congress can determine the applicability of the filed rate doctrine by amending the Sherman Act, as opposed to the relevant legislative body creating the agency authority?

2. Whether the limited statutory mandate of the PUCT under PURA is sufficient to give rise to the application of the filed rate doctrine?

3. Whether the application of the filed rate doctrine to the Texas Legislature's choice of private antitrust right of action, rather than PUCT refunds, to remedy anticompetitive behavior is unconstitutional?

PARTIES TO PROCEEDING

Petitioner is Texas Commercial Energy, a Texas Limited Liability Company.

Respondents are TXU Energy, Inc., TXU Generation Services Company, L.P., TXU Portfolio Management Company, L.P. (f/k/a TXU Energy Trading Company, L.P.),, TXU Energy Solutions Management Company (f/k/a TXU Energy Services Company), American Electric Power, *Inc.*, AEP Texas Central Company (f/k/a Central Power & Light), AEP Texas North Company (f/k/a West Texas Utilities Co.), American Electric Power Service Corp., AEP Texas Commercial Industrial Retail, L.P., CenterPoint Energy, Inc., CenterPoint Energy Houston Electric, L.L.C. (f/k/a Reliant Energy, Inc.), Texas Genco, L.P., Reliant Resources, Inc., Reliant Energy Electric Solutions, L.L.C., Reliant Energy Retail Services, L.L.C., Reliant Energy Solutions, L.L.C.), Automated Power Exchange, Inc., Electric Reliability Counsel of Texas, TECO Energy Source, Inc., Odessa-Ector Power Partners, L.L.P., Guadalupe Power Partners, L.P., Tractebel Energy Marketing, Inc.

RULE 29.6 STATEMENT

Texas Commercial Energy is a Texas Limited Liability Company and had its principal office in Corpus Christi, Texas. Texas Commercial Energy, because of the actions made the basis of this lawsuit, were forced to file for Chapter 11 bankruptcy in March 2003, and in September 2005 the bankruptcy was converted to Chapter 7. This lawsuit is the sole remaining asset of what once was Texas Commercial Energy.

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